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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,670	06/26/2001	Heinrich Franz Bartosik	AT000040	9721

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EXAMINER

NOLAN, DANIEL A

ART UNIT PAPER NUMBER

2654

DATE MAILED: 07/23/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/891,670	BARTOSIK, HEINRICH FRANZ	
	Examiner	Art Unit	
	Daniel A. Nolan	2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 20 April 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-9 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 26 June 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6) Other: _____ .

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Amendment

2. The filing of 20 April 2004 was applied to the following effect:
 - The abstract was changed as indicated and the objection is withdrawn.
 - The title was changed as indicated and the objection withdrawn as satisfied.
 - The specification was changed as indicated and the objections are withdrawn.
 - The claims were changed as indicated and the objections withdrawn.
 - Claim 9 was added and the claims examined on the merit.

Response to Arguments

3. Applicant's arguments filed 20 April 2004 have been fully considered but they are not persuasive.

In response to the argument that motivation to combine prior art came from nature of problem to be solved (last paragraph page 13), see Ruiz v. A.B. Chance Co. 03-1333, Jan. 29 2004. In applying the clear error standard, the Federal Circuit upheld the lower court's decision that one skilled in the art would be motivated to combine two prior art inventions directed at solving the same problem deciding that, "A court or

examiner may find the motivation to combine references in the nature of the problem to be solved."

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning (2nd paragraph page 14), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Claim Rejections - 35 USC § 103

Comerford et al, Brooks et al & Bartosik

4. Claims 1 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Comerford et al (U.S. Patent 5,243,149 A) in view of Brooks et al (U.S. Patent 6,477,493 B1) and further in view of Bartosik (U.S. Patent 6,662,156 B2).

5. Regarding claims 1 and 9, the invention of Comerford et al for *improving the paper interface to computing systems* reads on the feature of the claim for a *recording apparatus for recording speech information* (column 2 line 16) of a *dictation and for the subsequent transfer* (column 2 line 60) of the *recorded speech information of the*

dictation to a speech recognition device (column 2 lines 65-66) for off-line speech recognition as follows:

- *Comerford et al reads on the feature for receiving the speech information of the dictation (column 2 lines 15-17),*
- *Comerford et al reads on the feature for recording the received speech information (i.e., "collected" in column 2 lines 55-58) of the dictation in a recording mode of the recording apparatus and*
- *Comerford et al reads on the feature for transferring recorded speech information of the dictation (i.e., "dumped" column 2 lines 60-66) to the speech recognition device in a transfer mode of the recording apparatus,*
- *Comerford et al reads on the feature of which speech recognition device is arranged for recognizing text information to be assigned to the transferred speech information (column 3 lines 42-44), in such a matter that clearly recognizes the limitation of the quality of the recognized text information depending on the quality of the received speech information (so that speech and text can be later correlated, column 3 lines 44-47),*

Comerford et al does not, however, mention quality testing.

Brooks et al (57 figure 4A) reads on the feature of testing whether the quality of the speech information received in the recording mode is sufficient for obtaining a predefined quality of the recognized text information when the speech information is processed by the speech recognition device, and (60 in figure 4A) the feature of which speech information is transferred in the transfer mode (see Comerford et al, column 2

line 60) and Brooks et al reads on the feature *for transferring feedback information in the recording mode* (58 in figure 4A), *which feedback information represents the result of the test of the speech quality test.*

Neither Brooks nor Comerford indicate that the signal-to-noise ratio (SNR) may be tested. Bartosik, with the invention for a *speech detection device having multiple criteria to determine end of speech*, reads on the additional limitation *where the speech quality tests either SNR, signal level or velocity of speech in the received speech signal, and where the test outputs a quality information signal as a function of testing the corresponding SNR* (column 7 line 59), *the level or the velocity of speech in the received signal in the recording mode; that the feedback is either a corrective measure or a result of the corresponding quality test* is taught by Brooks (column 7 line 47).

Regarding the further limitation of claim 9, Bartosik teaches *determining a SNR below a threshold* (column 2 lines 40-50), speech velocity above a threshold or signal level below a threshold.

It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Brooks et al to the device and/or method of Comerford et al so as to notify users of a failure with suggested remedies and it would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method and/or teachings of Bartosik to the device/method of Comerford et al or Brooks et al to avoid errors caused by mis-recognition (of wrong text).

6. Regarding claim 5, the claim is set forth with the same limits as claim 1.

Comerford et al does not mention *quality testing*. Brooks et al reads on the feature of *testing to determine understandability or clarity [respectively] of the words of the dictation spoken by the user* (64 figure 4B) and, when the user pronounces the words so that they cannot be understood or are too indistinct, can transfer respective feedback information (66 figure 4B).

It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Brooks et al to the device/method of Comerford et al so as to notify users of a failure with suggested remedies.

7. Regarding claim 6, the claim is set forth with the same limits as claim 1.

Comerford et al does not mention *quality testing*. Brooks et al reads on the feature for *transferring feedback information which give the user an indication how the quality of the received speech information can be improved by measures of the user* (column 7 line 47) so as to notify users of a failure with suggested remedies.

8. Regarding claim 7, the claim is set forth with the same limits as claim 1.

Comerford et al discloses the feature that *the recording device is formed by a handheld dictating machine*.

Comerford et al, Brooks et al, Bartosik & Polikaitis et al

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Comerford et al in view of Brooks et al and further in view of Bartosik and further in view of Polikaitis et al (EPO Patent Great Britain 2,346,001 A).

9. Regarding claim 2, the claim is set forth with the same limits as claim 1.

Comerford et al (column 2 lines 15-17) reads on the feature of *receiving a speech signal containing speech information* but neither Comerford et al nor Brooks et al nor Bartosik mention *testing for SNR*.

Polikaitis et al, with the *communication device and method for screening speech recognizer input* reads on the feature *for testing the signal-to-noise ratio of the received speech signal* (260 figure 2) and *in which, when the signal-to-noise ratio is too low (S/N<Thresh6→error4 in figure 2), can transfer respective feedback information* (263 & 268 in figure 2).

It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Polikaitis et al to the device/method of Comerford et al or Brooks et al & Bartosik to provide the opportunity to correct the speech or configuration squelch.

10. Regarding claim 3, the claim is set forth with the same limits as claim 1.

Comerford et al (column 2 lines 15-17) reads on the feature of *receiving a speech signal*

containing speech information but neither Comerford et al or Brooks et al or Bartosik mention testing for speech signal levels.

Polikaitis et al reads on the feature *for testing the level of the received speech signal* (page 13 lines 11-12) *and in which, when the level is too low* (page 13 line 13), *can transfer respective feedback information* (page 13 line 18).

It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Polikaitis et al to the device/method of Comerford et al or Brooks et al & Bartosik so as to provide the opportunity to correct the speech or configuration gain.

11. Regarding claim 4, the claim is set forth with the same limits as claim 1. Comerford et al (column 2 lines 15-17) reads on the feature of *receiving a speech signal containing speech information* but neither Comerford et al nor Brooks et al nor Bartosik mention *testing for velocity or loudness*.

Polikaitis et al, with the *communication device and method for screening speech recognizer input* reads on the feature *for testing the velocity of the received speech signal* (250 figure 2) *and in which, when the speech velocity of the user is too high* (page 12 lines 11-13), *transfers respective feedback information* (253 & 258 in figure 2).

It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Polikaitis et al to the device/method of Comerford et al or Brooks et al & Bartosik so as to provide the opportunity to correct the speech or configuration volume.

Comerford et al, Brooks et al, Bartosik & Kopp et al

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Comerford et al in view of Brooks et al and further in view of Bartosik and further in view of Kopp et al (U.S. Patent 5,809,464 A).

13. Regarding claim 8, the claim is set forth with the same limits as claim 1. Comerford et al discloses a connection to output (295 in figure 15) but inputs only through the microphone and neither they nor Brooks et al nor Bartosik mention *phone or data lines*.

With the disclosure of *apparatus for recording speech for subsequent text generation*, Kopp et al teaches the feature *for receiving the speech information to a telephone line* (column 3 lines 63-66) or *data line [respectively]*. It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Kopp et al to the device/method of Comerford et al or Brooks et al & Bartosik to extend service for processing speech to persons at other locations.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Daniel A. Nolan at telephone (703) 305-1368 whose normal business hours are Mon, Tue, Thu & Fri, from 7 AM to 5 PM.

If attempts to contact the examiner by telephone are unsuccessful, supervisor Richemond Dorvil can be reached at (703)305-9645.

The fax phone number for Technology Center 2600 is (703)872-9314. Label informal and draft communications as "DRAFT" or "PROPOSED", & designate formal communications as "EXPEDITED PROCEDURE". Formal response to this action may be faxed according to the above instructions,

or mailed to: Mail Stop AF (or CPA, etc. – see Official Gazette, 04 November 2003)
P.O. Box 1450
Alexandria, VA 22313-1450

or hand-deliver to: Crystal Park 2,
2121 Crystal Drive, Arlington, VA,
Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office at telephone number (703) 306-0377.

Daniel A. Nolan
Examiner
Art Unit 2654

DAN/d
July 22, 2004



RICHMOND DORVIL
SUPERVISORY PATENT EXAMINER